

DAYBREAK COMMUNITY ASSOCIATION, INC
Common Area Transfer Policy

WHEREAS, The Daybreak Community Association Board of Directors (“Board”) is empowered pursuant to Chapter 3, C. Powers and Duties of the “By-Laws of Daybreak Community Association” to conduct, manage and control the affairs and activities of the Association.

WHEREAS, Daybreak has been established and is administered pursuant to various documents, described in Chapter 1 of the Community Charter for Daybreak, that have a legal and binding effect on all owners, which include the resolutions the Board adopts to establish rules, polices and procedures for internal governance and Association activities and to regulate the operation and use of property the Association owns or controls.

WHEREAS, the Founder or Founders Designee (used interchangeably herein) constructs Common Areas according to approved plans as the Daybreak Community is developed and eventually transfers these Common Areas to the Daybreak Community Association for ownership and maintenance.

WHEREAS, the Board finds there is a need to have a guideline for Common Area transfer from the Founder to the Daybreak Community Association.

NOW THEREFORE, IT IS RESOLVED the following Common Area Transfer Policy be adopted.

1. Construction of Common Area Improvements

- a. The Association will periodically inspect construction work to ensure compliance with acceptable construction designs and standards.
- b. Should work not conform to acceptable construction standards, the Association will notify the Founder and contractor in writing of the concerns.
- c. All Common Area work must be completed and/or corrected in accordance with approved construction plans prior to the start of the transfer process.

2. Notification of Transfer

- a. The Founder will complete the Common Area Transfer Application to schedule an Initial Inspection Meeting with the Association.
 - i. The Founder will submit one set of improvement plans that include all work to be transferred including but not limited to landscape, irrigation, walls, signs, equipment and/or building improvement plans. These plans must be provided to the Association seven (7) days prior to the Initial Inspection Meeting. An Initial Inspection Meeting will not be conducted if all plans have not been received by the Association.
 - ii. The Founder will submit a schedule of all utility meter locations and accounts for transfer of financial responsibility at the Initial Inspection Meeting.
 - iii. The Founder will submit all relevant City approved permits and final inspection sign off.

3. Initial Inspection Meeting and Punch List

- a. The Initial Inspection Meeting shall be an inspection of the common area improvements for conformance with the approved plans and to ensure work meets acceptable construction standards. Any and all experts and/or inspectors required to

complete the inspection shall be present, in addition to representatives of the Founder and the Association.

- b. Within ten (10) days after the Initial Inspection Meeting, the Association will provide the Founder a Punch List of corrections for the Common Area. Any concerns about the Punch List should be addressed to the Association in writing and not to the individual expert(s)/inspector(s). Upon completion of the Punch List work, the Founder will notify the Association of completion and schedule a Final Inspection Meeting.

4. Final Inspection Meeting

- a. A Final Inspection Meeting shall be held with all parties at the completion of the Punch List items.
- b. The Final Inspection Meeting shall be an inspection of the Common Area improvements to ensure all work noted on the initial punch list is completed.
- c. Any replacement or repairs to improvements not completed at this meeting must be completed and re-inspected prior to acceptance by the Association. The Founder will be charged a reasonable hourly fee by the Association for any and all re-inspections.

5. Common Area Acceptance

- a. Upon successful completion of the Final Inspection Meeting,
 - i. The Association will assume control and maintenance of the Common Area.
 - ii. The Founder's warranty period will begin the date the Association accepts the building and landscaping, and is as follows:
 1. All landscape groundcover and shrubs are warranted for ninety (90) days, unless accepted during an "off season", then the warranty period begins at the start of the next growing season
 2. All landscape trees are warranted for one (1) year.
 3. All irrigation is warranted for one (1) year.
 4. All other improvements, including but not limited to paving, structures and walls are warranted for one (1) year.
 - iii. The management team will verify all the above processes were followed, in writing, to the Covenants Committee.
 - iv. The Covenants Committee will review the provided information and upon determining the above processes were followed, will make a recommendation to the Board of Directors for Final Transfer of the Common Area.
 - v. The City must conduct a meter reading immediately prior to the transfer of the Common Area.
 - iv. The Founder will provide a Special Warranty Deed to the Association to legally transfer ownership of the Common Area.

6. Warranty Period

- a. Should any defects occur in the Common Area during the warranty period, the Association will notify the Founder in writing of the need for correction. The Founder will promptly respond to and remedy all warranty issues within thirty (30) days. If the work cannot be completed within thirty (30) days the Founder and Association will determine a reasonable deadline that will not exceed (60) days, unless the defect occurs during the winter months of November, December or January then the repairs must be completed no later than April 1. Should the Founder not remedy warranty items, the Association retains the right to pursue legal remedies to address the warranty issues and shall be entitled to its reasonable costs and attorney fees incurred in pursuing the matter.

7. Method of Transfer

- a. The Association shall have no obligation for any improvement, utilities, to maintain, to provide insurance or to make available for the enjoyment of the membership of the Association any Common Area until the Common Area is transferred from the Founder to the Association.
- b. The Association will not take title to a partially completed amenity or improvement and will not take title to a parcel that is not improved in its entirety, with the exception of land that is determined to remain as unimproved open space or as otherwise agreed to by both parties
- c. Only upon completion of the Common Area improvements, inspection, turnover process, and acceptance by the Daybreak Board of Directors, will the Founder deed over title to the property to the Association.
- d. The Founder will provide the Association a written copy of the legal description of the parcel including a plat plan reflecting relevant easement information, use restriction, etc.
- e. The Founder will provide a draft copy of the transfer deed with the legal description of the parcel identified upon the transfer deed.
- f. If applicable, the Founder will obtain and record lien releases relating to the parcel before transferring the parcel to the Association. The Founder will indemnify the Association for any failure of the Founder to do so.
- g. A Common Area Acceptance Certificate will be signed by the Association and Founder the day the Association accepts the Common Area.

8. Final Transfer

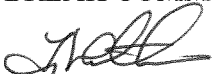
- a. The Final Transfer is complete upon approval of the Board of Directors.

9. Dispute Resolution

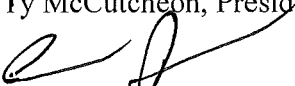
- a. Should any dispute arise between the Founder and the Management Team that cannot be resolved regarding acceptance of any Common Area, the dispute shall be brought before the Board of Directors of the Association and the Board shall make the final decision in resolving the dispute. All parties shall be bound by and shall abide by the Board's decision.
- b. Alternatively, the Board, in its discretion, may choose to have the dispute resolved by a neutral third party who has been agreed upon by all parties to the dispute. All parties shall be bound by and shall abide by the neutral third party's decision.

IN WITNESS WHEREOF, the said Board of Directors has caused this Resolution and Policy to be signed by its President and Secretary, this 23rd day of May, 2012.

DAYBREAK COMMUNITY ASSOCIATION, INC

By: 

Ty McCutcheon, President

By: 

Cameron Jackson, Secretary